IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO.896 OF 2003
IN
SUIT NO.748 OF 2003

Board of Trustees of Jawaharlal
Nehru Port Trust ... Plaintiff

versus

M/s.Vilas Transport Company ... Defendant

Mr.A.Bhise i/by Milan Bhise for plaintiff.
Mr.K.R.Shriram for defendant.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 3rd August 2005

PC :

1. The Jawaharlal Nehru Port Trust has filed this suit to recover from the defendant a sum of Rs.32,10,691/- as per Exhibit-Y to the plaint. On the own showing of the plaintiff this is a claim arising out of the lease granted by the plaintiffs in respect of an immovable property, to the defendant. The amount due and payable according to the plaintiff is on account of lease rentals, water charges, electricity charges, maintenance etc.. There are two office premises and ten "A" type residential quarters in Port area.

2. Amongst several other contentions, the

defendant has raised issue of maintainability. It is also pointed out that the premises are not in possession of the defendant. They are being occupied by certain ex-employees of defendant. These persons are illegally occupying the said premises. Liability is denied. Even otherwise reliance is placed on the fact that from 1999, port area operations have been discontinued by the defendant. Premises have been surrendered according to the defendant.

3. In my view, such issue cannot be decided in summary jurisdiction. This is not a case where the summary jurisdiction of this Court could be utilised to recover arrears of rent and other charges. Triable issues arise. Unconditional leave to defend is granted. Suit transferred to the list of commercial causes with usual directions to file written statement, inspection and discovery.

4. This order is without prejudice to the rights and contentions of the plaintiffs to initiate appropriate proceedings of recovery of the amounts as claimed in the suit from the defendant and/or third parties.

(S.C.DHARMADHIKARI, J.)